

No. 11,945

**PERRYTON HOSPITALITY,
INC.** § **IN THE 84th DISTRICT COURT**
Plaintiff §
v. § **IN AND FOR**
AUER CORPORATION, §
Defendant § **OCHILTREE COUNTY, TEXAS**

PLAINTIFF'S FIRST SUPPLEMENTAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now PERRYTON HOSPITALITY, INC., ("Plaintiff") in the above entitled cause and files this, its First Supplemental Petition, which supplements Plaintiff's Original Petition on file in this cause, complaining of AUER CORPORATION, ("Defendant") and for cause of action shows the court as follows:

A. Facts

1. Plaintiff incorporates the facts alleged in Plaintiff's Original Petition. Capitalized terms used herein shall have the meaning or definition as provided in Plaintiff's live pleadings, unless otherwise provided.

5 – Fraudulent Lien Claim

2. Defendant recorded its lien claim on the Property with: (1) knowledge that the lien claim is a fraudulent lien or claim against real property; (2) intent that the lien claim be given the same legal effect as a document evidencing a valid lien or claim against real property; and (3) intent to cause financial injury.

3. Recording of the fraudulent lien claim is prohibited by Chapter 12 of the Texas Civil Practice and Remedies Code and gives rise to a cause of action for the following relief:

FIRST SUPPLEMENTAL PETITION (PERRYTON)
#467708
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FILED
AT 11:01 O'CLOCK A M
11-17 A.D. 20 09
Shawn Royce
CLERK, DISTRICT COURT OCHILTREE COUNTY, TEXAS

- a. Statutory damages in the amount of the greater of actual damages or \$10,000.00;
- b. Exemplary damages; and
- c. Costs and attorney's fees.

B. Conditions Precedent

4. All conditions precedent have been performed or have occurred.

C. Damages

5. The Defendant's filing of the fraudulent lien claim gives rise to the following damages under Section 12.002(b) of the Texas Civil Practice & Remedies Code:

- a. Statutory damages in the amount of the greater of actual damages or \$10,000.00;
- b. Exemplary damages; and
- c. Costs and attorney's fees.

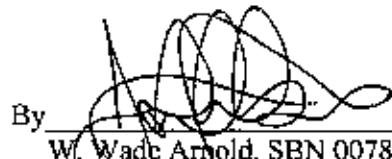
WHEREFORE, the Plaintiff requests that on hearing the Court award the following relief to the Plaintiff and against the Defendant:

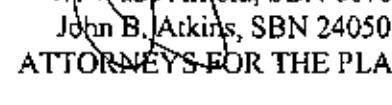
1. Statutory damages in the amount of the greater of actual damages or \$10,000.00;
2. Exemplary damages;
3. Costs and attorney's fees; and
4. Such other and further relief to which the Plaintiff may show itself to be justly entitled, either at law or in equity, general or specific.

Respectfully submitted,

UNDERWOOD, WILSON, BERRY
STEIN & JOHNSON, P.C.
W. Wade Arnold
State Bar No. 00783561
P. O. Box 9158
Amarillo, Texas 79105
(806) 376-5613
FAX (806) 379-0316

By


W. Wade Arnold, SBN 00783561


John B. Atkins, SBN 24050237

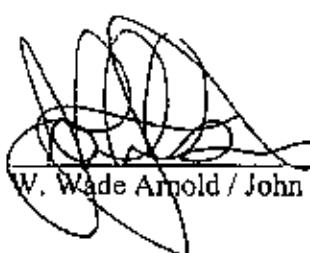
~~ATTORNEYS FOR THE PLAINTIFF~~

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument was, this 16th day of November, 2009, served upon all persons below by the means indicated:

Donna C. Kline
16144 Bethel Road
Montgomery, TX 77356

CMRRR # 7005 3110 0000 0988 5968


W. Wade Arnold / John B. Atkins